IN THE HIGH COURT OF HIMACHAL PRADESH SHIMLA

CR No. 472 of 2002

Date of Decision: 8.10.2007

Jehari Lal … Petitioner

Versus

Divisional Manager H.P.
HP Forest Corpn. Sawara … Respondents.

Coram:

The Hon'ble Mr. Justice Deepak Gupta, Judge.

Whether approved for reporting?

For the Petitioner (s) : Mr.G.D.Verma, Sr.Advocate with
Mr. B.C.Verma, Advocate.

For the Respondent(s) : Mr. Neel Kamal Sood, Advocate.

Deepak Gupta, J. (Oral).

This case discloses an unfortunate saga of how an unscrupulous litigant can keep delaying the legal process by abusing the process of the court.

The brief facts are that a consent decree was passed against the petitioner and in favour of the Forest Corporation/respondent on 6.11.1984 for a sum of Rs. 14,798.37 paise. Unfortunately there was no stipulation with regard to payment of interest in the decree. On 10.4.1985 an execution petition was filed by the respondent against the petitioner. This petition remained pending for almost 3 long years. On 23.2.1998 the judgment debtor (petitioner herein) made a statement that he is liable to pay a sum of Rs. 16,289.37 paise, but he is

unable to pay this amount in one go. He prayed that he may be permitted to pay the amount in four equal installments over a period of 1-1/2 years. In his statement he further stated that in case he is unable to pay the said amount within this period of 1-1/2 years, he would be liable to pay interest @ 12% per annum. On the basis of this statement, the execution petition was disposed of. The compromise was recorded and the parties were directed to abide by the terms of the compromise. The petitioner did not deposit any amount in terms of the compromise and resultantly, a fresh execution petition was filed by the respondent in June, 1989.

The petitioner filed numerous vexatious applications in this petition and the execution petition was finally dismissed for non appearance of the decree holder on 8.1.1997. Thereafter the decree holder filed another execution petition on 1.1.1997. Proclamation for sale of the property was issued time and again. The petitioner again filed an objection petition on the ground that the petitioner was entitled to adjustment of some amount which was due to him. These objections were dismissed on 6.1.2000. Thereafter the petitioner filed another objection petition raising the ground that the fresh execution was not within limitation. This objection was rejected with costs assessed at Rs. 500/-. The petitioner challenged this order before this court in Civil Revision No. 185 of 2000, but the same was rejected on June 6, 2002 and thereafter the petitioner first avoided service. After he was served, on 3.8.2000 he paid a sum of Rs.1,000/- towards the decretal amount. He sought time to pay the balance amount, but the court refused to grant any further time and ordered that proclamation of sale of the property of the petitioner be issued. Thereafter the

petitioner filed another objection petition and for the first time raised a plea that he is not liable to pay interest in terms of the decree. These objections were also rejected and hence the present petition.

As already noted above, the original decree did not carry interest. However, when the first execution petition was filed and the petitioner sought 1-1/2 years' time to pay the decretal amount, he agreed to pay interest @ 12% per annum. The petitioner cannot be permitted now to back out of the statement given by him. If he had not made the statement, the court would have executed the decree and recovered the amount as far back as in the year 1988. The petitioner has managed to thwart the execution of a decree passed against him as far back as in the year 1984 for more than 23 years. He even after giving various statements in court has failed to pay any amount. Now at this stage, more than 19 years after he made the statement that he would be liable to pay interest @ 12% per annum, neither in law nor in equity he can be permitted to back out of his statement.

Keeping in view the aforesaid facts and the totally dishonest attitude of the petitioner-judgment debtor the present petition is dismissed with exemplary costs of Rs. 5,000/-.

October 8, 2007 (Deepak Gupta), J.

s.